

**BOROUGH OF FENWICK  
PLANNING AND ZONING COMMISSION  
INLAND WETLANDS AGENCY  
SPECIAL MEETING  
TUESDAY, SEPTEMBER 26, 2017  
MINUTES**

**Present:** Chuck Chadwick – Chair, Sallie Boody, Art Wright, T. Van Itallie, Marilyn Ozols – ZEO.

**Absent:** Bill Christensen, Rick Neely (Alternate), Ann Pulver (Alternate).

**Members of Public:** Brooke Girty, Hope Proctor, Frank and Beverly Keeney, Tina Van Itallie.

**1. Call to Order.**

C. Chadwick called the meeting to order at 5:00. A quorum was established (Chadwick, Boody, Wright, Van Itallie).

**2. Election of Officers.**

**S. Boody moved to nominate C. Chadwick as Chairman of both the Planning and Zoning Commission and the Inland Wetlands Agency. T. Van Itallie seconded the motion and C. Chadwick was elected unanimously.**

**Approved 4-0-0**

For: Chadwick, Boody, Wright, Van Itallie.

Against: None.

Abstain: None.

**S. Boody moved to nominate A. Wright as Vice Chairman of both the Planning and Zoning Commission and the Inland Wetlands Agency. T. Van Itallie seconded the motion and A. Wright was elected unanimously.**

**Approved 4-0-0**

For: Chadwick, Wright, Boody, Van Itallie.

Against: None.

Abstain: None.

**A. Wright moved to nominate S. Boody as Secretary of both the Planning and Zoning Commission and the Inland Wetlands Agency. T. Van Itallie seconded the motion and S. Boody was elected unanimously.**

**Approved 4-0-0**

For: Chadwick, Boody, Wright, Van Itallie.

Against: None.

Abstain: None.

C. Chadwick stated that the agent for the 24 Agawam Avenue application had requested to be placed first on the agenda in order to accommodate attendance at another meeting. He asked the applicants for the 41 Pettipaug Avenue application if they had any issue with changing the order of the agenda. There being none, **A. Wright moved to hear the application for 24 Agawam Avenue prior to the application for 41 Pettipaug Avenue. S. Boody seconded the motion and it was approved unanimously.**

**Approved 4-0-0**

For: Chadwick, Boody, Wright, Van Itallie.

Against: None.

Abstain: None.

3. **ZSP17-007, 24 Agawam Avenue, map 10, lot 49.** E. P. Gengras, E. C. Gengras III and S. Boody, owners, E. C. Gengras III, applicant; Site Plan and Coastal Site Plan Review to demolish existing house and construct new single family dwelling, pool, and shed with related site development.

S. Boody recused herself for this application and left the table.

B. Girty presented. She stated that the proposal is to demolish the red house and build a new house, pool and shed. She used the site plan, elevations, and model to indicate the new construction, noting that the ac units and generator are 20 feet from the property line, 40 feet from the neighbor, and screened by a fence and plantings; and that the proposal fits all the parameters in the Regulations – setback, height, minimum square footage, and coverage (just under 15%). Members reviewed the site plan revised to 9/26/17 and the letter from the engineer addressing the ZEO comments. Relative to engineering comments and Commission questions, it was noted that

- the site is flat and drainage issues can be addressed with the stone edge drain and stipulations regarding the road and abutters;
- the generator is closer to the property line than the ac units because of building code clearance requirements;
- the ac units are not proposed for the west side of the house away from the abutter because of the wraparound porch, but they meet the requirements, are a “good distance from the neighbor”; will be screened by plantings, and are offset from the neighbor’s deck;
- there will be a buried propane tank;
- the pool equipment will be on the south side of the shed adjacent to the shower; the bushes shown on the plan are actually the screening for the equipment; it cannot go on the west side of the shed because of the sliding doors to the pool; and
- the generator will be tested once a week; the Commission recommended that every effort be made to coordinate test times with the times for neighbors’ generators.

It was discussed that the Certificates of Mailing had not been received, but it was indicated that all of the neighbors were aware of the application and had also been notified of the HDC application.

All items in the ZEO comments were reviewed with the applicant. It was determined that proposed stipulations 4 (test hole information and CRAHD approval), 8 (stormwater infiltration), and 10 (survey) had been addressed.

Members indicated that they had reviewed Site Plan Review Standards in the Regulations (Preservation of Landscape, Relation of Buildings and Structures to Environment, Site Design, Scenic Views, Buffer Areas, Water Quality and Drainage, Utilities, Other Site Features, and Natural and Historical Resources) and found the proposal in compliance.

Based on the discussion, **A. Wright moved that the Commission finds that the application for Site Plan and Coastal Site Plan Review to demolish the existing house and construct a new single family dwelling, pool, and shed with related site development at 24 Agawam Avenue, with the stipulations noted, is consistent with the goals and policies of the CT Coastal Management Act and that it complies with the review standards in the Borough of Fenwick Zoning Regulations, and approves the application based on the plans and documents submitted with the following stipulations:**

1. **The pea stone driveway and blue stone terrace shall be installed in accordance with the details submitted and shall be permanently maintained in the material specified.**
2. **There shall be no temporary on-site stockpiling of demolition debris. Any demolition debris/material, inclusive of the abandoned septic system shall be loaded directly into trucks or dumpsters for removal from the site. No demolition material shall be buried onsite.**
3. **The plans prepared by Indigo Land Design are the plans of record for the layout/location of proposed improvements.**
4. **Use of the outdoor shower shall comply with CRAHD requirements.**
5. **Approval by CRAHD shall be required prior to the issuance of a Zoning Permit. Any site design changes that are required by CRAHD shall require review by the Planning and**

**Zoning Commission unless determined by the Zoning Enforcement Officer to be consistent with the approved plan.**

- 6. The outlet discharge from the sump basin pump shall be directed so as not to flow onto or impact neighboring properties or Agawam Avenue.**
- 7. All exterior lighting shall comply with Section 4.5.1 of the Zoning Regulations.**
- 8. The applicant shall make every effort to build and finish construction during the 10 month period from September through June or to minimize any disturbed or unfinished appearance of the site and building between July 1 and Labor Day.**
- 9. An existing conditions survey (including the buildings, pool, septic system, drainage structures, driveway and patio/terrace) with distances to property lines, certification of finished ridge elevation from natural grade, and calculation of post construction coverage shall be submitted prior to issuance of zoning compliance for a Certificate of Occupancy. All surveys and certifications shall be prepared by a licensed surveyor.**
- 10. Revised plans shall be submitted to address the above conditions and the approved site plan shall be endorsed by the Commission chairman and filed on the Land Records of the Town of Old Saybrook.**
- 11. In accordance with the adopted fee schedule, the applicant shall reimburse the Borough for all engineering fees prior to issuance of a zoning permit for construction and prior to issuance of zoning compliance for a Certificate of Occupancy. Reimbursement shall include all costs incurred to that point in time.**

**T. Van Itallie seconded the motion and it was approved unanimously.**

**Approved 3-0-0**

For: Chadwick, Wright, Van Itallie.

Against: None.

Abstain: None.

The record plans for this application are:

- *Coastal Site Plan Prepared for E. Clayton Gengras, III, 24 Agawam Avenue, Map 10, Lot 49, Borough of Fenwick*, by Indigo Land Design, LLC, dated August 30, 2017, revised to 9/26/17
  - *Coastal Site Plan*, sheet CSP-1
  - *Soil Test Data & Septic Design Criteria*, sheet ST-1
  - *E&S and Construction Details*, sheet ES-1
- *The Gengras Cottage, 24 Agawam Avenue, Fenwick, Connecticut*, by Brooke Girty Design
  - *Proposed Elevations* (South, East) dated July 30, 2017, rev. 9/5/17, sheet A5
  - *Proposed Elevations* (North, West) dated July 27, 2017, rev. 9/5/17, sheet A6
  - *Proposed Section & Elevations* dated July 27, 2017, rev. 9/5/17, sheet A7

S. Boody resumed her seat at this time.

- 4. ZSP17-006, 41 Pettipaug Avenue, map 5, lot 122.** Lafayette Keeney, Trustee, owner, Frank Keeney, applicant; Site Plan and Coastal Site Plan Review to remove existing deck, construct new decks, screen room, and entry addition, and install generator and ac with related site development.

H. Proctor presented. She stated that they are proposing mostly cosmetic changes along with new windows; they are removing the existing deck and replacing it in a different configuration and including a roofed area / screened porch; the proposed footprint is smaller than the existing footprint; and they are adding ac units and a generator. She demonstrated the changes on the site plan and elevation drawings. Relative to the ac and generator, she stated that they are proposed for the northeast corner of the house where there are no abutting neighbors, they are adding landscaping which actually “gussies up” the front of the house, and the units will be set on a platform above elevation 10. She added that the existing piers for the deck will be replaced to comply with the current code requirements for hurricane resistance and the new windows will be impact resistant.

Members reviewed the materials in the file. M. Ozols stated that the application had not been referred for engineering review since this is a developed lot and no significant change in footprint or coverage is proposed. She summarized the proposed stipulations, noting that they are the standard ones applied to all

applications. She briefly explained that the west side of the building became nonconforming as to setback when a portion of the abandoned Bulkeley Avenue was acquired, increasing the lot size and the required rear yard. The new deck will be in the same nonconforming area, but Public Act 17-39 changed how nonconformities are addressed and, based on this new language, the applicant is entitled to maintain the nonconformity for new construction.

No issues with the Site Plan Review Standards in the Regulations or with CAM compliance were cited.

Based on the discussion, **A. Wright moved that the Commission finds that the application for Site Plan and Coastal Site Plan Review to remove the existing deck, construct new decks, a screen room, and an entry addition, and install a generator and ac with related site development at 41 Pettipaug Avenue, with the stipulations noted, is consistent with the goals and policies of the CT Coastal Management Act and that it complies with the review standards in the Borough of Fenwick Zoning Regulations, and approves the application based on the plans and documents submitted with the following stipulations:**

- 1. Silt fence shall be installed during construction if deemed necessary by the Zoning Enforcement Officer.**
- 2. There shall be no temporary on-site stockpiling of demolition debris. Any demolition debris/material, shall be loaded directly into trucks or dumpsters for removal from the site.**
- 3. The generator and ac units shall be installed such that the base of all units is above elevation 10.**
- 4. The applicant shall make every effort to build and finish construction during the 10 month period from September through June or to minimize any disturbed or unfinished appearance of the site and building between July 1 and Labor Day.**
- 5. An existing conditions survey with distances to property lines and calculation of post construction coverage shall be submitted prior to issuance of zoning compliance for a Certificate of Occupancy. All surveys and certifications shall be prepared by a licensed surveyor.**
- 6. The approved site plan shall be endorsed by the Commission chairman and filed on the Land Records of the Town of Old Saybrook.**

**T. Van Itallie seconded the motion and it was approved unanimously.**

**Approved 4-0-0**

For: Chadwick, Wright, Van Itallie, Boody.

Against: None.

Abstain: None.

The record plans for this application are:

- *Site Development Plan Property of Lafayette Keeney, Trustee, 41 Pettipaug Avenue, Borough of Fenwick*, by Angus McDonald Gary Sharpe & Associates, Inc. dated May 31, 2017, rev. 8/21/17
- *Keeney Residence, 41 Pettipaug Avenue, Fenwick, Connecticut*, by Proctor Architects, LLC dated 7/31/17, rev. 8/18/17
  - *First Floor Plan*, sheet A1.0
  - *Exterior Elevations* (West, North), Sheet A2.0
  - *Exterior Elevations* (East, South), Sheet A2.1

## **5. Proposed Amendments to Zoning Regulations.**

M. Ozols stated that she had provided members with some preliminary draft language for the two items that had previously been identified: short term rentals and administrative review of generator and ac units. The language has not yet been referred to the Commission's attorney for review. Additionally, relative to mergers that modify setbacks for existing buildings, Attorney Zizka recommends adding text to the Regulations that indicates nothing in the regulations shall be deemed to prohibit the merging of a vacant parcel of land with a developed parcel. The items were discussed separately.

Generators and AC Units. The draft changes to the Regulations were reviewed. The standards in the regulations are addressing the types of issues seen previously and there are a number of applications for

ac units and/or generators that are held up waiting for a meeting to be scheduled. However, an administrative application does not have a process for notifying abutters who may have concerns with proposed locations. Members discussed whether or not these applications should be made administrative, requested that an abutter notification be added, and agreed to bring a proposal to public hearing and make a determination at that time.

Short Term Rentals. Commission members discussed this at length and questioned whether there is a real need or this can be addressed with renter guidelines/codes of conduct. Most agreed that if a prohibition is added to the Regulations, only those shorter than one week should be included. After considerable discussion, members agreed that they don't see an issue at this time that warrants a regulation but they will be open to reconsideration in the future if there are problems.

Merger. When additional vacant property is combined with an existing developed lot, the increased area changes the rear setback requirement and any increase to lot width changes the site setbacks. This sometimes causes an existing conforming structure to become nonconforming, which technically creates an issue for the merger. A variance to allow the merger is inappropriate since the nonconformity is clearly self-created. The Commission's attorney has recommended that the best way to address this is to add language to indicate that nothing in the regulations shall be deemed to prohibit the merging of a vacant parcel of land with a developed parcel. Members agreed to have their attorney draft this proposed amendment but requested that it clearly address the impact on nonconformities.

**6. Approval of Minutes** of previous meeting: Planning & Zoning/Inland Wetlands – July 29, 2017.

**A. Wright moved to accept the Borough of Fenwick Planning and Zoning Commission minutes for the July 29, 2017 meeting as presented. S. Boody seconded the motion and it was approved unanimously.**

**Approved 4-0-0**

For: Chadwick, Boody, Wright, Van Itallie.

Against: None.

Abstain: None.

**7. Staff Report.**

M. Ozols reported that:

- The public hearing on the Plan of Conservation and Development is scheduled for Saturday, October 7, 2017. All required referrals have been made. RiverCOG has responded that the Plan is not inconsistent with the State PoCD and the Plans of surrounding towns. C. Chadwick stated that he had received compliments on the Plan and also a question about adding "teeth" to the Plan, to which he had responded that this was not that type of regulatory document.
- Anticipated applications include a generator at 7 Neponset Avenue (Scatterday) heat pumps at 8 Agawam (McCann), and a generator at 21 Neponset (Sbriglio).
- GZA, the engineering firm hired by the Borough to explore options for the Hepburn Preserve dune and marsh preservation will be submitting its report in December. They also assisted with an application to CIRCA (Connecticut Institute for Resilience & Climate Adaptation) for the cost of design once an option was determined by the Borough. The CIRCA review committee met on September 21 but the Borough has not heard anything. There has also been discussion of GZA providing recommendations relative to the Sequassen dune and road elevation. Members indicated that they would like to better understand the distinction between protecting the marsh and its environmental value and protecting neighboring properties from flooding.
- The current owner of 10 Mohegan has petitioned the court to withdraw the ZBA appeal.

**8. Other Business.**

None.

**9. Adjournment.**

**At 6:47 p.m., it was moved by A. Wright and seconded by S. Boody to adjourn the meeting. The motion passed unanimously.**

Respectfully submitted,

Marilyn Ozols, Acting Secretary